**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE SIDE**

**CIVIL APPLICATION NO. 3110 OF 2004**
**IN**
**FIRST APPEAL NO. 617 OF 1998**

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Office Notes, Office Memoranda of of Coram, appearances, Court's orders and Registrar's orders : Court's or Judge's orders

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**CORAM: P.V. KAKADE, J.**

**DATED: 16TH OCT., 2004**

**P.C.:**

1. Heard advocate holding for Shri Mohan Pungliya for the applicants.

2. This is an application for vacating the order dated 16.7.1998 passed by the Division Bench while admitting the first appeal.

On perusal of the impugned order as well as the subsequent order dated 13.12.2000, it is clear that the obligations undertaken by the applicants under the agreement for sale had to be discharged within two months of the last of the permission to be obtained. The declaration of residential zone was done by the notification dated 2.8.1989 while the permission under the U.L.C. Act was granted on 16.3.1995. In these circumstances, prima facie it was observed by the Division Bench

that there could not have been breach of the agreement for sale by the applicants, at the time the suit was filed. In view of this position, the Division Bench passed impugned order granting interim relief in terms of prayer clause (a) which is now sought to be vacated. On perusal of the application, I do not see any reason why this impugned order either be vacated or be modified in any way.

In view of this position, the application stands dismissed with no order as to costs.

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